



Land Development News

County of San Diego
Department of Public Works
January 2011

Rick Lantis, DPW Team Leader, Project Manager **Airport Land Use Compatibility**

In the vicinity of public airports, all Discretionary Permits must be reviewed for compliance with requirements regarding proximity to an airport. All eight County airports now have formal Airport Land Use Compatibility Plans (ALUCPs). These ALUCP documents refer to specific areas based on safety, overflight, noise, obstructions, etc. The County of San Diego (County) may be required to apply land use restrictions for projects to be compatible within the ALUCP area. For your convenience, a link is provided below to all local ALUCPs.

http://www.san.org/sdcraa/airport_initiatives/land_use/adopted_docs.aspx

There is a difference between Avigation Easement, Overflight Easement and Disclosure Area. An Avigation Easement is most restrictive. When a property is in near proximity to an airport, the Avigation Easement limits property rights above ground level and runs with the property even when the ownership changes. An Overflight Easement is less restrictive than an Avigation Easement and a Disclosure Area requires "notification" to any property owners that the land is near an airport and to consider that before purchasing the property. These Overflight Easement areas are typically in pattern overflight areas. State law requires full disclosure (Disclosure Area) from Real Estate agents to property buyers when they're near a public airport.

Avigation Easements exist as a function of their location with respect to the runway and overflight rather than project size. County staff will review the map to determine where, or in what zone the project lies. Once this is done, the color code on the map is matched to the legend on the right side of the map. Dark green areas are Avigation Easement areas; areas in the medium green require an Overflight Easement (less restrictive) and the lightest green only requires the typical Real Estate Disclosures that the land is near an airport (the least restrictive). Land that is completely outside of any of these areas will not have these easement requirements (see attached map). The Airport Land Use Compatibility Plans also have Safety Maps that relate to areas of restricted densities, intensities and zoning. There's also a Noise Contour map that relates project restrictions to noise contours. Basically, any area that is quieter than the minimum standard for its proposed use would be unrestricted.

Generally, the new ALUCP requirements only apply to "new" development; existing developments are unaffected by the plan. Redevelopment is NOT considered new development. Also note that any project that falls within the ALUCP area must also be reviewed by the San Diego County Regional Airport Authority.

If you would like additional information on ALUCP Avigation Easements, Overflight Easements, or Disclosure Areas, please contact Rick Lantis at (858) 495-5804.

Derek Gade, PDCI DPW LUEG Program Manager
Public Works Land Development Web Pages



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The Department of Public Works (DPW) has worked really hard to create many beneficial WebPages for the public and industry. Specifically, DPW Land Development has created WebPages for each individual section that makes up the Division. Within each section (i.e. Surveys/Cartography, Watershed Protection/Flood Control, LD Review Teams, and Private Development Construction Inspections), there is important information on our services, processes, and standards that are readily available 24 hours a day. This information is available at <http://www.sdcountry.ca.gov/dpw/land.html>.

We encourage you take advantage of this information and many other WebPages provided by the County. If you wish to request additional information be added to a DPW webpage, please feel free to contact the specific section or Private Development Construction Inspection at (858) 694-3165, or via email at grading@sdcounty.ca.gov.

Cid Tesoro, DPW Watershed Protection Program **Update on Municipal Stormwater Permit Re-issuance**

The San Diego Regional Municipal Stormwater Permit is currently scheduled for re-issuance in January 2012. Re-issuance is now a major focus for the County and the other 20 stormwater Copermittees, and permit re-issuance will continue to be a focus for the remainder of 2011. Both a Long-term Effectiveness Assessment (LTEA) and Report of Waste Discharge (ROWD) are scheduled to be completed and submitted to the RWQCB in June 2011 and will form much of the basis of discussions that will continue throughout the entire re-issuance process.

New issues and concerns will need to be addressed during this upcoming permit re-issuance process. Chief among these is the desire expressed by Regional Board staff to adopt a single, regional permit for all Region IX permittees (San Diego, Riverside, and South Orange Counties). While the transition to a different permitting approach may present opportunities, it will also require that a variety of practical and logistical issues be addressed. For example, what is the process for permitting and administering the permit over multiple regions? What is the role of watershed management? How will the existing differences in the requirements of the three permits (including construction and land development) be addressed?

An issue of relevance to this discussion is the March 2010 decision of the California State Mandates Commission, which found that a number of provisions of the 2001 Permit constitute unfunded State mandates. The County requested the Regional Board to hold-off on their efforts to renew the existing permit until after the State unfunded mandates issues are formally resolved; however, the Regional Board has chosen to move forward with permit re-issuance. The unfunded mandates decision is currently being challenged in the courts, its eventual disposition will have significant bearing not only on current Permit provisions, but also on the final form and content of any regional permit that might be adopted.

Terry Connors, DPW County Surveyor **Changes to the Map Act**

Senate Bill #113, passed in FY2009 and effective in January 2010, changed the requirements for dedications of the face of a Final and Parcel Map. When a dedication is required to be made, the Local Agency shall specify whether the dedication is to be in fee or just an easement. In either instance and for both types of maps, a specific language is required in the Owner's Statement. The County has not been seeing this specific language, but in order to comply with



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the law, the County will be looking for the dedication information in the future. Please see below for the detailed language added to the Subdivision Map Act by SB #113.

Final Map Dedication

Section 66439 of the Subdivision Map Act.

- a) Dedications of, or offers to dedicate interests in, real property for specified public purposes shall be made by a statement on the final map, signed and acknowledged by those parties having any record title interest in the real property being subdivided, subject to the provisions of Section 66436.
- b) In the event any street shown on a final map is not offered for dedication, the statement may contain a declaration to this effect. If the statement appears on the final map and if the map is approved by the legislative body, the use of the street or streets by the public shall be permissive only.
- c) An offer of dedication of real property for street or public utility easement purposes shall be deemed not to include any public utility facilities located on or under the real property unless, and only to the extent that, intent to dedicate the facilities is expressly declared in the statement.
- d)
 - 1) ***If a subdivider is required under this division or any other provision of law to make a dedication for specified public purposes on a final map, the local agency shall specify whether the dedication is to be in fee for public purposes or an easement for public purposes.***
 - 2) ***If the dedication is required to be in fee for public purposes, the subdivider shall include the following language in the dedication clause on the final map or any separate instrument: "The real property described below is dedicated in fee for public purposes: (here insert a description of the dedicated property that is adequate to convey the property)."***
 - 3) ***If the dedication is required to be an easement for public purposes, the subdivider shall include the following language in the dedication clause on the final map or any separate instrument: "The real property described below is dedicated as an easement for public purposes: (here insert a description of the easement that is adequate to convey the dedicated property)."***{Bold is the recent changed portion from the Map Act}

Parcel Map Dedication

Section 66447 of the Subdivision Map Act.

- a) If dedications or offers of dedication are required, they may be made either by a statement on the parcel map or by separate instrument, as provided by local ordinance. If dedications or offers of dedication are made by separate instrument, the dedications or offers of dedication shall be recorded concurrently with, or prior to, the parcel map being filed for record.
- b) The dedication or offers of dedication, whether by statement or separate instrument, shall be signed by the same parties and in the same manner as set forth in Section 66439 for dedications by a final map.
- c)
 - 1) ***If a subdivider is required under this division or any other provision of law to make a dedication for specified public purposes on a parcel map, the local agency shall specify whether the dedication is to be in fee for public purposes or an easement for public purposes.***
 - 2) ***If the dedication is required to be in fee for public purposes, the subdivider shall include the following language in the dedication clause on the parcel map or any separate instrument: "The real property described below is dedicated in fee for public purposes: (here insert a description of the dedicated property that is adequate to convey the property)."***



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- 3) *If the dedication is required to be an easement for public purposes, the subdivider shall include the following language in the dedication clause on the parcel map or any separate instrument: "The real property described below is dedicated as an easement for public purposes: (here insert a description of the easement that is adequate to convey the dedicated property)." {Same comment as above}*